

### **REMARKS**

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

### **THREE (3) MONTH SUSPENSION**

The RCE transmittal filed concurrently herewith includes a request for a three (3) month suspension, for the purposes of affording time for an examiner interview and/or to afford time for consideration of further amendments and/or arguments.

### **STATEMENT OF SUBSTANCE / NON-FINAL RCE FIRST OFFICE ACTION**

The 31 October 2007 telephonic examiner interview (by and between Examiner Jeffrey J. PIZIALLI and the undersigned) is respectfully noted; in such interview, it was agreed by the Examiner that if the present RCE was filed with claim amendments corresponding to those faxed to the Examiner and discussed during the telephonic examiner interview, then the Examiner would not make a first action final. It is respectfully submitted that the claim amendments submitted herewith correspond to those faxed/discussed during the examiner interview. The Examiner is thanked for such interview, and for allowing Applicant to avoid the procedural/administrative delays associated with an after-final amendment and advisory action process.

### **PENDING CLAIMS**

Claims 1-20 and 24 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled

and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 1-20 and 24 will be pending for further consideration and examination in the application.

### **REJECTION UNDER '112, 2ND PAR. OBVIATED VIA CLAIM AMENDMENT**

Claims 1-20 and 24 have been rejected under 35 USC '112, second paragraph, as being indefinite for the concerns listed within the section numbered "4" on page 2 of the Office Action. Claims 1-20 and 24 have been carefully reviewed and carefully amended where appropriate in order to address the Office Action listed concerns. Of particular interest, Applicant respectfully submits the following.

As indicated at MPEP §2173.05(b), the term "substantially" may very well be used in conjunction with another term to describe a particular characteristic of the claimed invention, and such terms are definite. As one very relevant example described in the MPEP, the Court in *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988) ruled that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." Likewise, Applicant respectfully submits that the term "substantially identical" in the present application also is definite, since one of ordinary skill would know what such term means in context with Claims 1-20 and 24.

As the foregoing is believed to have addressed all '112 second paragraph concerns, reconsideration and withdrawal of the '112 second paragraph rejection are respectfully requested.

### **REJECTION UNDER 35 USC §103 - TRAVERSED**

The 35 USC §103 rejection of Claims 1-20 and 24 as being unpatentable over Okumura *et al.* (US 6,115,018 A) in view of Chen (US 5,592,193 A) is respectfully traversed. Such rejection has been made obsolete by the present clarifying amendments to the claims, and accordingly, traversal arguments are not appropriate at this time. However, Applicant respectfully submits the following to preclude further rejection of the claims.

All descriptions of Applicants disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated herein by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed.

Applicant's claims have been clarified to recite "**illumination control means for controlling an illumination start time and an illumination "on" time** of the illumination unit **so that a time integral value of a transmission factor for a frame in which the transmission factor is changed due to an overshoot drive is substantially equal to a time integral value of a transmission factor for a frame in which the transmission reaches a designated level and stays in a stable state.**" Support for the clarified features limitations can be found within Applicant's

original disclosure, for example, in the paragraph bridging pages 9 and 10 of the specification, and lines 3-11 of page 14.

Regarding preclusion of the previously-applied art from supporting a 103 obviousness-type rejection, it is respectfully submitted that the Okumura et al. and Chen references (taken alone, and in combination) would not have suggested any arrangement which would have made the above-emphasized features obvious.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a §103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such §103 rejection, and express written allowance of all of the rejected claims, are respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

#### **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter.

Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

### **CONCLUSION**

This Amendment is being submitted concurrently with the filing of a Request for Continued Examination (RCE) and does not present any changes which would require further search, consideration or fees. Entry and approval of the minor corrections made herein are respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR 1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 503.39221CX1) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

ANTONELLI, TERRY, STOUT & KRAUS, LLP

/Paul J. Skwierawski/  
Paul J. Skwierawski  
Registration No. 32,173

PJS/slk  
(703) 312-6600